

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2013-001476

04/10/2014

HON. RANDALL H. WARNER

CLERK OF THE COURT
K. Ballard
Deputy

CODY ALLAN CLARK, et al.

MATTHEW B CUNNINGHAM

v.

JOSEPH PAUL SPANO, et al.

JOEL D DECIANCIO

ERIC C ANDERSON
JOHN M DICARO
DARRELL S DUDZIK
MYLES P HASSETT
KATHLEEN L WIENEKE

HEARING

Courtroom: ECB-512

9:00 a.m. This is the time set for accelerated oral argument regarding Plaintiffs' April 3, 2014 Motion to Compel Defendant City of Scottsdale and Request for In Camera Inspection. Plaintiffs Cody Allen Clark, Todd A. Clark, and Sandra R. Clanton are represented (telephonically) by Counsel Matthew B. Cunningham. Plaintiff Michael D. Tysver is represented (telephonically) by Counsel Myles P. Hassett. Defendant Joseph Paul Spano is represented (telephonically) by Counsel Joel D. DeCiancio. Defendant REDW, LLC is represented (telephonically) by Counsel John DiCaro. Defendant Axis Cigar Bar, LLC (dba Axis-Radius) is represented (telephonically) by Counsel Darrell S. Dudzik. Defendant City of Scottsdale is represented (telephonically) by Counsel Jacob B. Lee (appearing in place of Kathleen L. Wieneke).

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

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Oral argument is presented.

IT IS ORDERED directing the City of Scottsdale to do the following.

1. Produce for in camera review any emails that have been redacted that were written by a non-lawyer to a group of people that may include a lawyer.
2. As to any emails that were written by a lawyer or to a lawyer only, they do not need to be produced to the court for in camera review; however, within **30 days**, Plaintiffs are entitled to a privilege log with respect to those emails describing, in the manner required by Rule 26.1, the nature of the communications that are asserted to be privileged.
3. The City is to provide (via email to the court's Judicial Assistant, Rosanne Coloccia, coloccia@superircourt.maricopa.gov) to the court the in camera review materials by **Monday, April 14, 2014**.

Plaintiffs' counsel advises the court that the first deposition for which they need the requested emails is scheduled for April 21, 2014.

Plaintiffs request that the privilege log be provided on an expedited basis.

IT IS ORDERED denying Plaintiffs' request.

With regard to today's rulings, the court is only ruling that Plaintiffs have not made a prima facie case to justify in camera review of certain emails as set forth above.

9:14 a.m. Matter concludes.

Effective April 15, 2014 new civil rules and forms are in effect for managing cases moving to trial. Be sure to review the new Civil Rules 16, 26, 37, 38, 72 through 74 and 77.